



Revenue and Transportation Interim Committee

64th Montana Legislature

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FONG HOM, Secretary

November 30, 2015 ****DRAFT LETTER FOR COMMITTEE DISCUSSION****

RE: Results of the Poll of the Legislature: MAR Notice No. 42-2-939

To Whom it May Concern:

On October 15, 2015, the Department of Revenue published MAR Notice No. [42-2-939](#) pertaining to the public hearing on the proposed adoption of New Rule I, which is located on page 1682 of the 2015 Montana Administrative Register, Issue Number 19. The proposed new rule relates to [Senate Bill No. 410 \(2015\)](#), which created two new tax credits, one for contributing to a new educational improvement special revenue account for distribution to school districts for new programs and one for making donations to student scholarship organizations that give scholarships to students in private schools. The short title of [SB 410](#) is "Provide for tax credits for contributions to public and private schools".

Objection Letters Received

Section [2-4-403](#), MCA, requires the interim committee that has subject matter jurisdiction over an agency to conduct a poll of the members of the Legislature when 20 or more legislators object to a proposed rule. As of October 31, 2015, the Legislative Services Division had received 20 written objections to the Department of Revenue's proposed New Rule I in MAR [42-2-939](#), which falls under the jurisdiction of the Revenue and Transportation Interim Committee under section [5-5-227](#), MCA. Further written objections were received after October 31, 2015.

Poll of the Legislature

The Revenue and Transportation Interim Committee conducted a poll of the members of the Legislature starting on November 10, 2015, and ending on November 24, 2015, at 5:00 p.m. The question raised in the poll was as follows:

Proposed Rule I in MAR 42-2-939 (Qualified Education Provider)

_____ The proposed rule IS CONSISTENT WITH legislative intent.

_____ The proposed rule IS CONTRARY TO legislative intent.

The following table accurately reflects the vote of the Senate:

		The proposed rule IS CONSISTENT WITH legislative intent	The proposed rule IS CONTRARY TO legislative intent
Senate District	Senator		
20	ANKNEY, DUANE		1
26	ARNTZEN, ELSIE		1
36	BARRETT, DEBBY		1
45	BARRETT, DICK	1	
4	BLASDEL, MARK		1
17	BRENDEN, JOHN		1
2	BROWN, DEE		1
28	BROWN, TAYLOR		1
11	BUTTREY, EDWARD		1
41	CAFERRO, MARY		
42	COHENOUR, JILL	1	
43	CONNELL, PAT		1
25	DRISCOLL, ROBYN	1	
50	FACEY, TOM	1	
7	FIELDER, JENNIFER		1
15	HAMLETT, BRADLEY MAXON		
14	HANSEN, KRISTIN		1
32	HINKLE, JEDEDIAH		1
13	HOVEN, BRIAN		1
29	HOWARD, DAVID		1
9	JONES, LLEW		1
22	KARY, DOUG		1
40	KAUFMANN, CHRISTINE	1	
38	KEANE, JIM		
5	KEENAN, BOB		1
47	LARSEN, CLIFF	1	
46	MALEK, SUE	1	
24	MCNALLY, MARY	1	
12	MOE, MARY SHEEHY	1	
19	MOORE, FREDERICK (ERIC)		1
31	PHILLIPS, MIKE	1	
33	POMNICHOWSKI, JP	1	
10	RIPLEY, RICK		1
18	ROSENDALE, MATTHEW		1

35	SALES, SCOTT		
49	SANDS, DIANE	1	
37	SESSO, JON	1	
27	SMITH, CARY		1
21	STEWART-PEREGOY, SHARON		
30	SWANDAL, NELS		1
6	TAYLOR, JANNA		1
44	THOMAS, FRED		1
3	TUTVEDT, BRUCE		1
34	VANCE, GORDON		1
1	VINCENT, CHAS		1
39	VUCKOVICH, GENE	1	
23	WEBB, ROGER		1
8	WHITFORD, LEA	1	
16	WINDY BOY, JONATHAN		1
48	WOLKEN, CYNTHIA		
	Senate Total	15	29

The following table accurately reflects the vote of the House of Representatives:

House District	Representative	The proposed rule IS CONSISTENT WITH legislative intent	The proposed rule IS CONTRARY TO legislative intent
87	BALLANCE, NANCY		1
91	BENNETT, BRYCE	1	
1	BENNETT, JERRY		1
58	BERGLEE, SETH		1
40	BERRY, TOM		1
9	BRODEHL, RANDY		1
13	BROWN, BOB		1
63	BROWN, ZACH	1	
67	BURNETT, TOM		1
17	CLARK, CHRISTY		1
18	COOK, ROB		1
50	COURT, VIRGINIA	1	
2	CUFFE, MIKE		1
98	CURDY, WILLIS	1	
39	CUSTER, GERALDINE		1
36	DOANE, ALAN		1
94	DUDIK, KIMBERLY	1	

84	DUNWELL, MARY ANN	1	
79	ECK, JENNY	1	
86	EHLI, RON		1
81	ELLIS, JANET	1	
54	ESSMANN, JEFF		1
43	FISCUS, CLAYTON		1
20	FITZPATRICK, STEVE		1
70	FLYNN, KELLY		1
82	FUNK, MOFFIE	1	
7	GARNER, FRANK		1
6	GLIMM, CARL		1
88	GREEF, EDWARD		1
52	HAGSTROM, DAVE		1
29	HARRIS, BILL		1
66	HAYMAN, DENISE	1	
12	HERTZ, GREG		1
28	HESS, STEPHANIE		1
90	HILL, ELLIE BOLDMAN		
27	HOLLANDSWORTH, ROY		1
38	HOLMLUND, KENNETH		1
83	HUNTER, CHUCK	1	
21	JACOBSON, TOM	1	
46	JONES, DONALD		1
48	KARJALA, JESSICA	1	
47	KELKER, KATHY		1
15	KIPP III, GEORGE		
34	KNUDSEN, AUSTIN		1
60	LAMM, DEBRA		1
33	LANG, MIKE		1
53	LASZLOFFY, SARAH		1
8	LAVIN, STEVE		1
5	LIESER, ED	1	
76	LYNCH, RYAN		
51	MACDONALD, MARGARET (MARGIE)	1	
57	MANDEVILLE, FORREST		1
85	MANZELLA, THERESA		1
49	MCCARTHY, KELLY	1	
73	MCCLAFFERTY, EDIE	1	
89	MCCONNELL, NATE	1	
23	MCKAMEY, WENDY		1
22	MEHLHOFF, ROBERT		
32	MEYERS, G. BRUCE		1
80	MILLER, MIKE		1

69	MONFORTON, MATTHEW		1
92	MOORE, DAVID (DOC)		1
44	MORTENSEN, DALE		1
10	NOLAND, MARK		1
74	NOONAN, PAT	1	
100	OLSEN, ANDREA	1	
11	OLSZEWSKI, ALBERT		1
30	OSMUNDSON, RYAN		1
42	PEASE-LOPEZ, CAROLYN	1	
41	PEPPERS, RAE		1
3	PERRY, ZAC	1	
96	PERSON, ANDREW	1	
78	PIERSON, GORDON	1	
19	PINOCCI, RANDALL		1
65	POPE, CHRISTOPHER	1	
24	PRICE, JEAN	1	
37	RANDALL, LEE		1
59	REDFIELD, ALAN		1
4	REGIER, KEITH		1
55	RICCI, VINCE	1	
56	RICHMOND, TOM		1
93	SALOMON, DANIEL		1
25	SCHREINER, CASEY	1	
14	SCHWADERER, NICHOLAS*		
71	SHAW, RAY	1	
31	SMITH, BRIDGET	1	
35	STAFFANSON, SCOTT		1
99	STEENBERG, TOM	1	
77	SWANSON, KATHY	1	
26	TROPILA, MITCH		
97	TSCHIDA, BRAD		1
75	WAGONER, KIRK		1
16	WEBBER, SUSAN	1	
72	WELBORN, JEFFREY		1
64	WHITE, KERRY		1
61	WILLIAMS, KATHLEEN		
95	WILSON, NANCY	1	
68	WITTICH, ART		1
62	WOODS, TOM		
45	ZOLNIKOV, DANIEL		1
House Total		34	58

* A ballot was received by the Legislative Services Division from Rep. Schwaderer on November 25, 2015. The vote was "The proposed rule IS CONTRARY TO legislative intent."

Potential Impact of the Poll Results

Section 2-4-404, MCA, provides that the results of an interim committee poll must be admissible in any court proceeding involving the validity of the proposed rule. It provides further that if a majority of the members of both houses find that the proposed rule or adopted rule is contrary to the intent of the legislature, the proposed rule or adopted rule must be conclusively presumed to be contrary to the legislative intent in any court proceeding involving its validity.

Additional Information

The poll materials are available by contacting the Legislative Services Division, P.O. Box 201706, Room 110, State Capitol, 1301 East Sixth Avenue, Helena, MT 59620-1706; telephone (406) 444-3064 or fax (406) 444-3036. Alternatively, the poll materials that were received by the members of the Legislature are available on the Revenue and Transportation Interim Committee website: www.leg.mt.gov/rtic or <http://leg.mt.gov/css/Committees/Interim/2015-2016/Revenue-and-Transportation/>

Senator Fred Thomas
Chairman

Representative Tom Jacobson
Vice Chairman

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